

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	CR. 12-50132-JLV
)	
Plaintiff,)	ORDER DENYING
)	DEFENDANT’S MOTION
vs.)	TO DISMISS
)	
JAMES BOYTER,)	
)	
Defendant.)	

Pending before the court is a *pro se* motion filed by defendant James Boyter to dismiss the indictment filed against him in this district. (Docket 6). Mr. Boyter argues because more than 180 days have elapsed since he was incarcerated in Texas, the indictment in this case must be dismissed pursuant to the Interstate Agreement Act on Detainers (“IAD”), 18 U.S.C. App. 2, § 2. Id. at 1-2. The government resists the motion. (Docket 8).

Article III(a) provides that a prisoner of one party State¹ who is the subject of a detainer lodged by another State must be brought to trial within 180 days “after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer’s jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint” 18 U.S.C. App. 2, § 2,

¹Under the IAD, “ ‘State’ shall mean a State of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.” 18 U.S.C. App. 2, § 2, Art. II(a).

Art. III(a). See also Reed v. Farley, 512 U.S. 339, 346 n. 6 (1994) (Article III(a) “requires that a prisoner against whom a detainer has been lodged be tried within 180 days of the prosecuting State’s receipt of the prisoner’s notice requesting speedy disposition of the charges.”).

Mr. Boyter does not claim to have provided written notice as required under the IAD and the court has received no written notice. In addition, the indictment in this case was filed on September 25, 2012. (Docket 3). As of the date of this order, only 71 days have elapsed since the indictment was filed. Even if Mr. Boyter had provided written notice on the day the indictment was filed, the 180 days provided for under Article III(a) of the IAD have not elapsed. Therefore, it is hereby

ORDERED that Mr. Boyter’s motion to dismiss (Docket 6) is denied.

Dated December 5, 2012.

BY THE COURT:

/s/ Jeffrey L. Viken

JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE